

Frequently Asked Questions: Reverse Mortgage Update—Options for Borrowers and Surviving Non-Borrowing Spouses Facing Foreclosure

FAQ Sheet • March 2020

Sarah Mancini, National Consumer Law Center

How can you determine if your client is a reverse mortgage non-borrowing spouse?

For homeowners who took out a reverse mortgage prior to August 4, 2014, if the spouse was not included as a borrower on the reverse mortgage, the mortgage documents state that the loan will become “due and payable” after the borrower dies or moves out of the home for health reasons. When a reverse mortgage becomes due and payable, that means the full balance must be paid back or the lender will foreclose. If a non-borrowing spouse is still living in the home, certain steps must be taken quickly after the borrower’s death (or before). Read more below to find out if your client needs to take action.

Why does a lender foreclose after the borrower’s death?

The fact that the lender will foreclose after the borrower’s death sometimes comes as a surprise to a recently widowed spouse. Some couples were led to believe that the non-borrower spouse would be protected or could be “added to the loan” later. But, in fact, spouses that were “left off” the reverse mortgage, meaning they were not included as a borrower, face the risk of foreclosure after the borrowing spouse passes away. This changed for new reverse mortgages made after August 4, 2014. **These more recent reverse mortgage loan documents allow the non-borrowing spouse to remain in the home when the borrower dies.**

How can the client stay in the home if the client is a non-borrower spouse and the borrower has died?

The client should contact their servicer right away! There is a small window of time right now—up until March 21, 2020—during which the lender can put the loan into a program called the Mortgagee Optional Election (MOE). **he process can take months, so immediate action is needed.** The point of this program is to let a non-borrowing spouse stay in the home for as long as they are able to live there and keep up with other requirements, like paying the property taxes and insurance. However, it is important to contact the mortgage company right away so that they can collect some information. Your client can get help or advice from a HUD-certified housing counselor.

What information does the mortgage company need from my client?

They may ask for things like the date the spouse died, the date of their marriage, and whether they are still living in the home. They may ask for the Social Security number and a copy of the marriage certificate.

What if the client is in a repayment plan to pay back property taxes or insurance?

If the borrower has been in a repayment plan to pay back the mortgage company for amounts it paid for taxes or insurance, that balance will have to be paid off in full before the spouse can be approved for the MOE program. Consider whether the client can use life insurance proceeds, savings, or help from family members to pay these charges. Your state or city may also have a program to help.

What if the borrower is still living, but there is a non-borrowing spouse in the home?

The borrower should act now to notify the mortgage company that there is a non-borrowing spouse. The borrower can call the mortgage company or return the Non-Borrowing Spouse Information Sheet. If the borrower has questions, call the mortgage company or get help from a HUD-certified housing counselor. Make sure the property taxes and homeowner's insurance are paid on time. If the borrower is in a repayment plan to pay back the lender for taxes or insurance that were paid, that balance has to be paid off when the borrower dies if the spouse wants to be able to stay in the home through the MOE program.

Where else can the client get help or advice?

They can call their mortgage company, get in touch with a HUD-certified housing counselor, or get free advice from a lawyer (if you qualify) by contacting a legal services provider.

Resources

- [U.S. Department of Housing and Urban Development \(HUD\)](#)
 - » [Find a HUD-approved housing counseling agency](#)
- Housing Counseling & National Advocacy Organizations
 - » Senior Homeownership Preservation Project (SHOPP): (773) 262-7801. This project works with Home Equity Conversion Mortgage (HECM) borrowers who are facing default on their mortgages due to non-payment of property taxes or homeowners insurance.
 - » [National Consumer Law Center](#)
 - Fact Sheet: [Are you a Reverse Mortgage Non-Borrowing Spouse? Tips to Help You Remain in Your Home](#)
- Legal Assistance
 - » [Legal services/Legal aid](#)
 - » American Bar Association: [Volunteer lawyers](#)
 - » [National Association of Consumer Advocates](#)

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at ConsultNCLER@acl.hhs.gov.

This FAQ Sheet was supported by a contract with the National Center on Law and Elder Rights, contract number HHSP233201650076A, from the U.S. Administration on Community Living, Department of Health and Human Services, Washington, D.C. 20201.